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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,138	10/16/2003	Randal Howard Kerstetter III	DN2003175	8238
27280	7590	08/25/2005	EXAMINER	
THE GOODYEAR TIRE & RUBBER COMPANY INTELLECTUAL PROPERTY DEPARTMENT 823 1144 EAST MARKET STREET AKRON, OH 44316-0001			MIGGINS, MICHAEL C	
		ART UNIT	PAPER NUMBER	1772

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/687,138	KERSTETTER ET AL.
	<b>Examiner</b> Michael C. Miggins	<b>Art Unit</b> 1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 October 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5, 7-14, 16 and 18-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 10162003.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Schisler et al. (U.S. Patent No. 6,264,178 B1) and Yarnell et al. (EP 1205515, cited in applicant's IDS of 10/16/03).

Applicant discloses (pages 1, line 15 through page 2, line 27 of the instant specification) that the prior art discloses an airsleeve comprising an elastomeric liner, a reinforcing layer overlaying the liner, and an elastomeric cover overlaying the reinforcing layer, the reinforcing layer comprising textile fibers having distributed over surface portions thereof and RFL adhesive and an elastomeric base, or plycoat, formed from rubber, wherein the cover and liner comprises at least one rubber selected from the epichlorohydrin rubber, brominated butyl rubber and chlorinated butyl rubber, wherein said airsleeve is a component of a manufactured item selected from shock absorbers, structs, truck cab suspension springs, truck driver seat springs, automobile air springs, and industrial air springs, wherein said RFL comprises resorcinol, formaldehyde, and at least one polymer selected from styrene-butadiene copolymer and vinylpyridene-styrene-butadiene terpolymer, wherein the air spring is a bellows type air spring,

wherein the airspring is a rolling lobe air spring (applies to instant claims 1-3, 10-14 and 18).

The difference between the instant claims and the admitted prior art is that the admitted prior art fails to disclose an elastomeric base formed from a rubber composition comprising 100 parts by weight of at least one diene-based elastomer selected from natural rubber, synthetic polyisoprene rubber, butadiene and styrene-butadiene rubber, wherein said textile fibers are selected from the group consisting of woven fabrics, knitted fabrics, knitted fabric, or spun bonded fabric, and fiber cord, wherein textile fibers comprises nylon.

Schisler discloses an elastomeric base formed from a rubber composition comprising 100 parts by weight of at least one diene-based elastomer selected from natural rubber, synthetic polyisoprene rubber, butadiene and styrene-butadiene rubber (since the elastomers listed can be used alone (100 parts) or in a mixture, column 4, lines 11-25), wherein said textile fibers are selected from the group consisting of woven fabrics, knitted fabrics, knitted fabric, or spun bonded fabric, and fiber cord, wherein textile fibers comprises nylon (column 4, lines 25-35, column 6, lines 4-7) in a fiber reinforced elastomeric base for use in air sleeves for the purpose of preventing sleeve failure (column 1, lines 10-28) (applies to instant claims 1, 6-9 and 18).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided an elastomeric base formed from a rubber composition comprising 100 parts by weight of at least one diene-based elastomer selected from natural rubber, synthetic polyisoprene rubber, butadiene and

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styrene-butadiene rubber, wherein said textile fibers are selected from the group consisting of woven fabrics, knitted fabrics, knitted fabric, or spun bonded fabric, and fiber cord, wherein textile fibers comprises nylon in the air sleeve of the admitted prior art in order to prevent sleeve failure as taught or suggested by Schisler.

The difference between the instant claims and the admitted prior art is that the admitted prior art fails to disclose an elastomeric base comprising from about 1 to 40 parts by weight of a metal salt of an alpha, beta-ethylenically unsaturated carboxylic acid and from about 0.2 to about 5 parts by weight of an organic peroxide, wherein the base further comprises from about 30 to about 60 parts by weight of a filler selected from carbon black and silica and wherein the metal salt is selected from the group consisting of zinc diacrylate and zinc dimethacrylate.

Yarnell discloses an elastomeric base comprising from about 1 to 40 parts by weight of a metal salt of an alpha, beta-ethylenically unsaturated carboxylic acid (page 5, paragraphs [0026] – [0029]) and from about 0.2 to about 5 parts by weight of an organic peroxide (pages 5-6, paragraph [0031]), wherein the base further comprises from about 30 to about 60 parts by weight of a filler selected from carbon black and silica (page 5, paragraph [0029]) and wherein the metal salt is selected from the group consisting of zinc diacrylate and zinc dimethacrylate (page 5, paragraph [0030]) in an elastomeric base for use in air springs (page 2, paragraph [0007]) for the purpose of providing improved adhesion to textile reinforcement (applies to instant claims 1, 4, 15-20).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided an elastomeric base comprising from about 1 to 40 parts by weight of a metal salt of an alpha, beta-ethylenically unsaturated carboxylic acid and from about 0.2 to about 5 parts by weight of an organic peroxide, wherein the base further comprises from about 30 to about 60 parts by weight of a filler selected from carbon black and silica and wherein the metal salt is selected from the group consisting of zinc diacrylate and zinc dimethacrylate in the air sleeve of the admitted prior art in order to provide improved adhesion to textile reinforcement as taught or suggested by Yarnell.

With regard to instant claims 6, 15 and 18, Schisler discloses a mixture of natural rubber and polyisoprene or butadiene rubber (column 4, lines 11-23). Schisler fails to disclose applicant's recited range for concentration of the natural rubber and polyisoprene or butadiene rubber. However, optimization of a result effective variable such as concentration, absent clear and convincing evidence of an unexpected result, is obvious and within the level of one of ordinary skill in the art (MPEP 2144). It would have been obvious to have provided a mixture of natural rubber and polyisoprene or butadiene rubber in applicant's recited concentration range in order to provide improved adhesion between layers and prevent sleeve failure.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is (571) 272-1494. The examiner can normally be reached on Monday-Friday; 1:30-10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael C. Miggins  
Examiner  
Art Unit 1772



MCM  
February 18, 2004